

1 IN THE UNITED STATES DISTRICT COURT  
 2 FOR THE NORTHERN DISTRICT OF ILLINOIS  
 3 EASTERN DIVISION

4 ORIGINAL

5 ROYAL SLEEP )  
 6 PRODUCTS, INC., a )  
 7 Florida Corporation, )

8 Plaintiff, )

9 vs. )

No. 07 C 6588

10 RESTONE CORPORATION, )  
 11 an Illinois )  
 12 Corporation, et al., )

13 Defendants. )

14 The deposition of STEPHEN RUSSO, called  
 15 by the Plaintiff for examination, pursuant to  
 16 notice and pursuant to the Federal Rules of  
 17 Civil Procedure for the United States  
 18 District Courts pertaining to the taking of  
 19 depositions, taken before Laura E. Locascio,  
 20 Certified Shorthand Reporter and Notary  
 21 Public in and for the County of Cook, State  
 22 of Illinois, at 330 North Wabash Avenue,  
 23 Chicago, Illinois commencing at 1:40 p.m. on  
 24 the 14th day of July, A.D., 2008.



1 APPEARANCES:

2

3 ZARCO EINHORN SALKOWSKI & BRITO

4 BY: MR. ROBERT F. SALKOWSKI

5 Bank of America Tower

6 100 SE 2nd Street

7 27th Floor

8 Miami, Florida 33131

9 Phone: 305-374-5418

10 On behalf of the Plaintiff;

11

12 BURKE, WARREN, MCKAY & SERRITELLA, PC

13 BY: MR. FREDERIC A. MENDELSON

14 IBM Plaza

15 330 North Wabash Avenue

16 Suite 2200

17 Chicago, Illinois 60611

18 Phone: 312-840-7004

19 On behalf of the Defendants,

20 Restonic Corporation and

21 Restonic Mattress Corporation;

22

23

24

1 APPEARANCES: (CONT'D)

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3 SMITH AMUNDSEN, LLC

4 BY: MR. THOMAS J. LYMAN, III

5 150 North Michigan Avenue

6 Suite 3300

7 Chicago, Illinois 60601

8 Phone: 312-894-3241

9 On behalf of the Defendants,

10 Sleep Alliance, LLC; Royal

11 Bedding Company of Buffalo,

12 Jackson Mattress Co, LLC; and

13 Tom Comer;

14  
15 PEARSON CHRISTENSEN & CLAPP

16 BY: MR. DANIEL L. GAUSTAD

17 645 Hill Avenue

18 Grafton, North Dakota 58237

19 Phone: 701-352-3262

20 Appearing telephonically on

21 behalf of the Defendants,

22 Stevens Mattress Manufacturing

23 Co. and Richards Stevens;

1 APPEARANCES: (CONT'D)

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3

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FULBRIGHT & JAWORSKI, LLP

5

BY: MR. ANDREW FRIEDBERG

6

1301 McKinney Street

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Houston, Texas 77010

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Phone: 713-651-5151

9

Appearing telephonically on

10

behalf of the Defendants,

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Continental Silverline

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Products, L.P. and Drew Robins.

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## I N D E X

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WITNESS

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STEPHEN RUSSO

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MR. SALKOWSKI

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MR. LYMAN

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MR. GAUSTAD

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## E X H I B I T S

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DEPOSITION EXHIBIT

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(No exhibits were marked.)

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1 would give the various licensees under the  
2 license agreements?

3 A As the president of Restonic?

4 Q Yes.

5 A No.

6 Q Have you done any type of -- have you  
7 performed any type of support on behalf of  
8 Sleep Alliance outside your role as president  
9 of Restonic?

10 A I facilitated a meeting for Sleep  
11 Alliance.

12 Q What was the nature of that meeting, sir?

13 A It was a business planning meeting they  
14 had.

15 Q Do you know when that was?

16 A Not exactly. It was last year.

17 Q Do you recall if it was in October of  
18 2007 at the Sofitel Hotel?

19 A That sounds familiar.

20 Q What was the reason why -- first of all,  
21 who asked you to facilitate the meeting for  
22 Sleep Alliance?

23 A Mr. Comer did.

24 Q This was at the Sofitel Hotel here in

1 Chicago or the Chicago area?

2 A Correct.

3 Q Do you know why you were asked by  
4 Mr. Comer to facilitate this meeting?

5 A Because when I'm not working for  
6 companies, I have a managerial practice that  
7 facilitates meetings.

8 Q What's the name of that company, sir?

9 A It's called Apollo Solutions.

10 Q When you say facilitate a meeting, could  
11 you describe what that means?

12 A That means I would work with the  
13 principals of the meeting to put together an  
14 agenda. And then I would direct the meeting  
15 process to ensure that they achieve their  
16 agenda.

17 Q Does Apollo Solutions have any equity  
18 interest or any other type of ownership  
19 interest in Sleep Alliance?

20 A No.

21 Q Did Sleep Alliance pay you or pay Apollo  
22 Solutions for the facilitation of this meeting?

23 A No.

24 Q Does Apollo Solutions' customers

1 typically pay Apollo Solutions for the  
2 facilitation of these meetings?

3 A If there are -- if they become ongoing  
4 engagements.

5 Q Is the work Apollo Solutions performs on  
6 behalf of its customers limited to facilitating  
7 meetings in the bedding industry, or is it any  
8 type of industry?

9 A Any type of industry.

10 Q With respect to the meeting that occurred  
11 in the Sofitel Hotel in Chicago last year, do  
12 you recall who was in attendance at that  
13 meeting?

14 A I recall some of the participants, but I  
15 may not recall all of the participants.

16 Q Who do you recall?

17 A Mr. Comer was present. Ms. Laurie  
18 Tokarz. Mr. Robins was present. A fellow by  
19 the name of Ken Akers. A fellow by the name of  
20 Brent Ford.

21 And there were two representatives  
22 of a firm that they were working with,  
23 Mann Epperson. But I don't recall their first  
24 names, though.



1 Q Was drew Robins at that meeting?

2 A I don't recall.

3 Q Do you recall if Richard Stevens was at  
4 that meeting?

5 A No, Richard was not at that meeting.

6 Q Was anyone on Mr. Stevens' behalf at that  
7 meeting?

8 A Akers.

9 Q Ken Akers. I'm sorry.

10 A Again, we need to be clear. That's a  
11 product marketing committee meeting. So Ken  
12 was a member of it. He was there on Richard's  
13 behalf. Another fellow by the name of  
14 Bob Quinn was also at that meeting. He was on  
15 the product marketing committee.

16 Q Now, with respect to these product  
17 marketing committees, do you have to be a  
18 licensee or an employee of a licensee to attend  
19 or to participate in these meetings?

20 A To be a member.

21 Q Who pays for the cost and expenses of the  
22 participation for these meetings?

23 A Restonic does. And we reimburse the  
24 travel expenses.

1 A Yes.

2 Q Now, sir, does any of the Restonic  
3 licensees purchase anything directly from  
4 Restonic Corporation or Restonic Mattress  
5 Corporation?

6 A Yes.

7 Q What is the nature of the products that  
8 are purchased or services that are purchased?

9 A Well, the services are the marketing  
10 services of brand management, which they pay a  
11 licensing fee for. The products are actually  
12 marketing materials that Restonic develops.

13 Q Those are purchased by the licensees from  
14 Restonic here in Illinois?

15 A Yes.

16 Q In addition to marketing materials, do  
17 the licensees purchase anything else directly  
18 from Restonic?

19 A Not that I'm aware of.

20 Q How about whether or not Restonic  
21 purchased anything from licensees?

22 A The only thing that we may purchase from  
23 a licensee that we can think of would be some  
24 material we would need for our showroom in

Deposition of Stephen Russo

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1 Illinois?

2 A No.

3 Q How about Richard Stevens, same question?

4 A No.

5 Q How about for any other purpose besides  
6 fire retardant tests, has Restonic ever  
7 purchased any products from either of those  
8 three licensees for the purposes of use somehow  
9 in the State of Illinois?

10 A State of Illinois, no.

11 Q How about elsewhere?

12 A Yes.

13 Q In what context has Restonic purchased  
14 products from either Mr. Comer's businesses,  
15 Mr. Stevens; business or Mr. Robins' business?

16 A Only Mr. Robins of the three.

17 Q Tell me about the purchase Restonic  
18 made --

19 A It was for samples for the showroom in  
20 Las Vegas.

21 Q Were those products shipped directly to  
22 Las Vegas, or were they shipped to Illinois  
23 first?

24 A Directly to Las Vegas.

1 MR. SALKOWSKI: Sir, I have no further  
2 questions. For the purposes of the record, the  
3 deposition was limited to issues surrounding  
4 jurisdiction. And that I reserve the right to  
5 call you on the substantive matters if need be.

6 MR. MENDELSON: Anybody else?

7 MR. LYMAN: I have a question.

8 EXAMINATION

9 BY MR. LYMAN:

10 Q Do you know that Sleep Alliance meeting  
11 that I think you facilitated?

12 A Yes.

13 Q Was that in conjunction with some other  
14 meetings that were taking place at the same  
15 time like other Restonic meetings, if you know?

16 A Well, that I recall now as we went  
17 through this process, it was the afternoon of  
18 and the morning after that this product  
19 marketing committee meeting we were having here  
20 in Chicago.

21 Q So, in other words, there were Restonic  
22 meetings that proceeded first?

23 A Correct.

24 Q I think you already told us that the

1 reason all these people met for the Sleep  
2 Alliance is because it was a convenient  
3 location being in Chicago, correct?

4 A Correct.

5 Q So now it's even more convenient because  
6 everybody was already there because of  
7 Restonic -- a Restonic meeting that had taken  
8 place before the Sleep Alliance meeting,  
9 correct?

10 A Not everybody. But most of them,  
11 correct.

12 MR. LYMAN: That's all I have.

13 EXAMINATION

14 BY MR. GAUSTAD:

15 Q Mr. Russo, you had mentioned Ken Akers on  
16 a number of occasions. As I understand, it's  
17 your understanding or you believe Mr. Akers is  
18 an employee of the Stevens group, is that  
19 right? Do you know?

20 A I believe he works for Stevens Mattress  
21 Company. One of the two, if not both.

22 Q So when he was in attendance at these  
23 meetings, was he there on behalf of the entity  
24 or Mr. Stevens in an individual capacity?

1 STATE OF ILLINOIS )  
2 COUNTY OF COOK ) SS.  
3

4 I, Laura E. Locascio, Certified  
5 Shorthand Reporter and Notary Public, in and  
6 for the County of Cook, State of Illinois, do  
7 hereby certify that previous to the  
8 commencement of the examination, said witness  
9 was duly sworn by me to testify the truth;  
10 that the said deposition was taken at the  
11 time and place aforesaid; that the  
12 testimony given by said witness was reduced  
13 to writing by means of shorthand and  
14 thereafter transcribed into typewritten form;  
15 and that the foregoing is a true, correct,  
16 and complete transcript of my shorthand notes  
17 so taken as aforesaid.

18 I further certify that there were  
19 present at the taking of the said deposition  
20 the persons and parties as indicated on the  
21 appearance page made a part of this  
22 deposition.  
23  
24

1 I further certify that I am not  
2 counsel for nor in any way related to any of  
3 the parties to this suit, nor am I in any way  
4 interested in the outcome thereof.

5 I further certify that this  
6 certificate applies to the original signed IN  
7 BLUE and certified transcripts only. I  
8 assume no responsibility for the accuracy of  
9 any reproduced copies not made under my  
10 control or direction.

11 IN TESTIMONY WHEREOF I have  
12 hereunto set my hand and affixed my notorial  
13 seal this 27<sup>th</sup> day of July, A.D., 2008.

14  
15  
16   
17 Laura Locascio, CSR, RPR

18 My Commission Expires  
19 October 16, 2011  
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21  
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23  
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